

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JEFFERY LEE BOSOLD	:	CIVIL ACTION
	:	
v.	:	
	:	
WARDEN, SCI-SOMERSET, ET AL.	:	NO. 11-4292

**ORDER**

**AND NOW**, this 28th day of December, 2011, upon consideration of Defendants' Motion to Dismiss (Docket No. 9), and all documents filed in connection therewith, **IT IS HEREBY ORDERED** that the Motion is **GRANTED IN PART AND DENIED IN PART** as follows:

1. The Motion is **DENIED** insofar as it seeks dismissal of this action for improper venue pursuant to Federal Rule of Civil Procedure 12(b)(3).
2. The Motion is **DENIED** insofar as it seeks to transfer this action to the Middle or Western District of Pennsylvania pursuant to 28 U.S.C. § 1404(a).
3. The Motion is **GRANTED** insofar as it seeks dismissal of this action pursuant to Federal Rule of Civil Procedure 12(b)(6). Count I of the Amended Complaint is **DISMISSED WITH PREJUDICE** as to Plaintiff's claim, brought pursuant to 42 U.S.C. § 1983, for violation of his rights under the Fourth and Fifth Amendment and under the Due Process Clause of the Fourteenth Amendment. Count II of the Amended Complaint is also **DISMISSED WITH PREJUDICE**.
4. Plaintiff may file a second amended complaint within 20 days of the date of this Order asserting a claim pursuant to 42 U.S.C. § 1983 for violation of his Eighth Amendment right to be free of cruel and unusual punishment.

BY THE COURT:

/s/ John R. Padova

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John R. Padova, J.